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10 DAVID CAMEZ

11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, ) CASE NO: 2:12-cr-00004-APG-EJY  
15 )  
16 DAVID CAMEZ, ) **DEFENSE COUNSEL'S UNOPPOSED**  
17 Defendant. ) **MOTION TO EXTEND TIME TO**  
18 ) **RESPOND TO GOVERNMENT'S**  
19 ) **MOTION TO DISMISS AND**  
20 ) **ORDER**  
21 ) **(First Request)**  
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17 **CERTIFICATION:** The Response filing deadline was March 23, 2020.

18 COMES NOW, Defendant, DAVID CAMEZ, by and through his counsel of record,  
19 KELSEY BERNSTEIN, ESQ of Nevada Appeal Group, and hereby respectfully moves this  
20 Honorable Court for a continuance based on FRCP 46(b)(1)(B). This motion is supported by the  
21 following Points and Authorities, the United States Constitution, all pleadings and papers filed  
22 herein, and any argument or evidence which may be presented at a hearing, if required on this  
23 motion. Defense Counsel does not believe a hearing is necessary for decision on the instant  
24 matter.

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

There are no mechanical tests for deciding whether a continuance should be granted, and the answer "must be found in the circumstances present in every case." *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964).

In this case, a continuance is necessary for Defense Counsel to effectively prepare a response to the Government's Motion to Dismiss Defendant's Untimely Motion to Vacate Sentence (Doc. 1657, filed March 4, 2020). Defense Counsel affirms that the Government does not oppose a continuance, and indicated such via electronic mail on March 23, 2020.

Defense Counsel was recently appointed to Mr. Camez's matter on March 16, 2020, after the Government files its Motion to Dismiss Defendant's Untimely Motion to Vacate Sentence. Defense Counsel contacted the Government to receive an extension to file his Response, as said Response was due on March 23, 2020. After obtaining confirmation that the Government would not oppose a continuance, Defense Counsel attempted to file the instant Motion to Extend Time. However, Defense Counsel encountered numerous technical difficulties that ultimately required a complete reset and re-verification of all credentials, further exacerbated by the Covid-19 circumstances wherein technical assistance was via remote means only. Therefore, Defense Counsel maintains the instant Motion would have been timely filed had it not been for Defense Counsel's excusable neglect not at the fault of the Defendant.

Defense Counsel requests a continuance of at least 30 days to investigate the timeliness of Mr. Camez's Motion to Vacate Sentence. Although this issue does not require a review of the full court record, which is substantial, several representations by Mr. Camez in his Motion require further investigation to determine the potential applicability of relevant tolling statutes. Therefore, Defense Counsel cannot effectively investigate or prepare a Response within the ordinary course of the Motion deadlines. Additional time is also required because of the limited communication abilities with Mr. Camez due to Covid-19, which has restricted communications almost entirely to regular mail.

## **CONCLUSION**

For the aforementioned reasons, Defense Counsel requests this Court grant the Motion to Extend Time. For the Court's convenience, Defense Counsel has included a proposed Order.

DATED this 27th day of March, 2020.

s/Kelsey Bernstein  
KELSEY BERNSTEIN, ESQ.  
Nevada Bar No. 13825  
Attorney for Defendant

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

DAVID CAMEZ,

Defendant.

) 2:12-cr-00004-APG-EJY

**ORDER GRANTING MOTION TO  
EXTEND TIME**

The Court having considered the Defense Counsels Motion to Extend, this Court enters the following order:

Good cause appearing therefore,

**IT IS THEREFORE ORDERED** that the Defense Counsel shall have until

May 1, 2020, by the hour of 5:00 p.m., within which to file any and all responsive pleadings.

Dated: March 27, 2020.



United States District Judge